

APPEAL NO. 022160  
FILED OCTOBER 10, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 29, 2002. The hearing officer determined that (1) the respondent/cross-appellant (claimant) sustained a compensable injury in the form of a hernia on \_\_\_\_\_; (2) the appellant/cross-respondent (carrier) is not relieved from liability under Section 409.002, because the claimant had good cause for failing to timely notify his employer of the claimed injury; and (3) the claimant did not have disability. The carrier appeals the injury and notice determinations on sufficiency grounds. The claimant urges affirmance of such determinations but cross-appeals the hearing officer's disability determination on sufficiency grounds. In its response to the claimant's cross-appeal, the carrier urges affirmance.

DECISION

Affirmed as reformed.

INJURY AND DISABILITY

The hearing officer did not err in determining that the claimant sustained a compensable injury in the form of a hernia on \_\_\_\_\_, and did not have disability. The determinations involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The claimant requests correction of a "clerical" error in the hearing officer's decision and order, with regard to the type of hernia which was sustained. The medical evidence shows and the hearing officer found that the claimant sustained an *umbilical* hernia. However, Conclusion of Law No. 3 and the "Decision" portion of the decision and order erroneously provide that the claimant sustained a compensable *inguinal* hernia. Accordingly, we reform those portions of the decision and order, consistent with the evidence and the hearing officer's finding of fact, to state that the claimant sustained a compensable *umbilical* hernia.

NOTICE

The hearing officer did not err in determining that the claimant had good cause

for failing to timely notify his employer of the claimed injury and the carrier is not relieved from liability for this claim, pursuant to Section 409.002. We have held that the appropriate test for the existence of good cause is whether the claimant acted as a reasonably prudent person would have acted under the circumstances. Texas Workers' Compensation Commission Appeal No. 94244, decided April 15, 1994, citing Morrow v. H.E.B., Inc., 714 S.W.2d 297 (Tex. 1986). Under the circumstances of this case, we conclude that the hearing officer did not abuse his discretion in determining that the claimant had good cause for failing to timely notify his employer of the claimed injury.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **ILLINOIS NATIONAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**ROBERT PARNELL  
8144 WALNUT HILL LANE, SUITE 1600  
DALLAS, TEXAS 75231.**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Michael B. McShane  
Appeals Judge